

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PANORAMA PRODUCE SALES, INC.	:	
933 Mamaroneck Avenue	:	
Mamaroneck, NY 10543	:	CIVIL ACTION
	:	
v.	:	NO.
	:	
CROWLEY LATIN AMERICA SERVICES	:	
a/k/a CROWLEY MARITIME CORPORATION:	:	
9487 Regency Square Boulevard	:	
Jacksonville, FL 32225	:	

COMPLAINT IN ADMIRALTY *IN REM AND IN PERSONAM*

Parties

1. Panorama Produce Sales, Inc. is a New York corporation with its principal place of business located at 933 Mamaroneck Avenue, Mamaroneck, NY 10543.

2. Plaintiff is the shipper, receiver or consignee of fruit, and regularly imports their product on board ocean vessels arriving in the Port of Philadelphia, and on their own behalf or as agents have a right to maintain this action.

3. Defendant, Crowley Latin America Services a/k/a Crowley Maritime Corporation (“Crowley”), on information and belief, is a foreign corporation with an office and place of business in Jacksonville, Florida. At all times material hereto, Crowley was the owner, charterer and/or operator of the vessel, M/V PEGASUS J.

4. Defendant, Crowley, was at all times material hereto the charterer, agent, manager, operator and/or owner of the above named vessel, and carried plaintiff’s goods by sea between foreign ports and the Port of Philadelphia.

5. The vessels owned and/or operated by Crowley have utilized the ports of the Commonwealth by loading and discharging cargo, and utilizing and purchasing services at the Port of Philadelphia.

Jurisdiction and Venue

6. This suit is a maritime and admiralty action within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and Supplemental Admiralty Rules, and invokes the exclusive jurisdiction of the United States district courts in maritime and admiralty actions pursuant to 28 U.S.C. § 1333. Subject matter jurisdiction is also proper pursuant to 28 U.S.C. § 1331 and this is a suit arising under the laws of the United, including the Carriage of Goods by Sea Act ("COGSA"), 46 U.S.C. § 30701 app. and the Harter Act of 1893, 46 U.S.C. § 30701 *et seq.*

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

COUNT I

8. In or about May of 2019, in Santo Thomas, Guatemala, 5,600 boxes of fresh mangoes consigned to plaintiff were delivered in good order and condition to the defendant and were supposed to be carried on board the M/V PEGASUS J for transportation to the Miami and delivered there in like good order and condition.

9. In or about May of 2019, the aforesaid shipment was loaded aboard the vessel and clean on-board bill of lading numbered GTYN9M001395 relating to container TGHU9959755 was issued, acknowledging receipt on the vessel of the said shipment in good order and condition.

10. In or about May of 2019, the M/V PEGASUS J arrived in Port Everglades, Florida and was discharged in said port.

11. Thereafter, various goods were delivered by the above named defendant to plaintiff, whereupon it was discovered that plaintiff's goods were not in like good order and condition as when received by the defendant, but were instead damaged, deteriorated in value and unfit for sale or use.

12. The aforesaid damage and loss of plaintiff's cargo was the result of breaches by the defendant of its obligations as a common carrier of goods, of breaches by it of the lawful terms and conditions of the bill of lading issued by them.

13. By reason of the breaches of the defendant of the lawful terms and conditions of the bill of lading issued by it and the breaches of the defendant and its obligations as common carriers of goods, plaintiff has sustained damage and loss in an amount in excess of Twenty-One Thousand Dollars (\$21,000.00).

14. The aforesaid damage and/or loss of plaintiffs' cargo was caused by the unseaworthiness of the above named vessels and the negligence of the above-named defendant, its agents, servants and employees in:

- a. failing to provide a seaworthy vessel and a seaworthy place for the care, handling, stowage and carriage of the aforesaid shipment;
- b. failing to exercise due and proper care in the handling, stowing, carrying and discharge of said cargo;
- c. failing to safeguard properly said cargo and to prevent damage to it while in their custody and care;
- d. failing to provide the agreed upon temperature to the cargo;
- e. failing to use proper care under the circumstances; and
- f. other and further particulars which will be shown at the time of trial.

15. By reason of the above defendant's negligence and lack of due care and the failure of the defendant to provide a seaworthy place for the handling, stowage, carriage and discharge of plaintiff's goods and the lack of appropriate stowage aboard the vessels, plaintiff has suffered damages and loss in excess of Twenty-One Thousand Dollars (\$21,000.00).

16. Notice of claim and claim have been filed with the defendant, but they have failed and refused to pay any part of the loss which has been sustained by plaintiff.

WHEREFORE, plaintiff prays that:

1. Process in the due form of law, according to the practice of this Court issue against the defendant inviting it to appear and answer all and singular the matters aforesaid.

2. Judgment be entered on behalf of plaintiff and against the defendant plus interest and costs of this action.

3. For such other and further relief in the premises and in law and justice as it may be entitled to receive.

DUGAN, BRINKMANN, MAGINNIS AND PACE

BY: EM871
Eugene J. Maginnis, Jr., Esquire
Stephen M. Winning, Esquire
1880 John F. Kennedy Boulevard, Ste. 1400
Philadelphia, PA 19103
(215) 563-3500
ATTORNEYS FOR PLAINTIFF

Dated: December 23, 2019

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974 is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Panorama Produce Sales, Inc

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Dugan, Brinkmann, Maginnis and Pace
1880 JFK Blvd., Ste. 1400, Philadelphia, PA 19103
(215) 563-3500

DEFENDANTS

Crowley Latin America Services a/k/a Crowley Maritime Corporation

County of Residence of First Listed Defendant Duval County, Florida

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

19 6070**II. BASIS OF JURISDICTION (Place an 'X' in One Box Only)**

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an 'X' in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an 'X' in One Box Only)

Click here for Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input checked="" type="checkbox"/> 110 Insurance <input checked="" type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (395(f)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Other <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an 'X' in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 46 U.S.C. §1300 et seq. and the Harter Act of 1893, 46 U.S.C. §§190-196

Brief description of cause:
 Admiralty Case

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23 F.R.C.P.

DEMAND \$
 21,000.00

CHECK YES only if demanded in complaint.
 JURY DEMAND ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

2/23/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

DEC 23 2019

19-CV-607C

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff 933 Mamaroneck Avenue, Mamaroneck, NY 10543
 Address of Defendant 9487 Regency Square Boulevard, Jacksonville, FL 32225
 Place of Accident, Incident or Transaction Case in Admiralty

RELATED CASE, IF ANY:

Case Number _____ Judge _____ Date Terminated _____

Civil cases are deemed related when **Yes** is answered to any of the following questions

- | | | | |
|---|---|------------------------------|--|
| 1 | Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2 | Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3 | Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4 | Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that to my knowledge, the within case ☐ is ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above

DATE 12/23/2019 [Signature] 23692
 Attorney-at-Law / Pro Se Plaintiff Attorney I D # (if applicable)

CIVIL: (Place a ☒ in one category only)

- | | |
|--|---|
| A Federal Question Cases | B Diversity Jurisdiction Cases |
| <input checked="" type="checkbox"/> 1 Indemnity Contract, Marine Contract, and All Other Contracts | <input type="checkbox"/> 1 Insurance Contract and Other Contracts |
| <input checked="" type="checkbox"/> 2 FELA | <input type="checkbox"/> 2 Airplane Personal Injury |
| <input type="checkbox"/> 3 Jones Act-Personal Injury | <input type="checkbox"/> 3 Assault, Defamation |
| <input type="checkbox"/> 4 Antitrust | <input type="checkbox"/> 4 Marine Personal Injury |
| <input type="checkbox"/> 5 Patent | <input type="checkbox"/> 5 Motor Vehicle Personal Injury |
| <input type="checkbox"/> 6 Labor-Management Relations | <input type="checkbox"/> 6 Other Personal Injury (Please specify) _____ |
| <input type="checkbox"/> 7 Civil Rights | <input type="checkbox"/> 7 Products Liability |
| <input type="checkbox"/> 8 Habeas Corpus | <input type="checkbox"/> 8 Products Liability - Asbestos |
| <input type="checkbox"/> 9 Securities Act(s) Cases | <input type="checkbox"/> 9 All other Diversity Cases |
| <input type="checkbox"/> 10 Social Security Review Cases | (Please specify) _____ |
| <input type="checkbox"/> 11 All other Federal Question Cases | |
| (Please specify) _____ | |

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration)

I, Eugene J. Maginnis, Jr., Esquire, counsel of record or pro se plaintiff, do hereby certify
☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs Less than \$150,000.00

☐ Relief other than monetary damages is sought

DATE 12/23/2019 [Signature] 23692
 Attorney-at-Law / Pro Se Plaintiff Attorney I D # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

DEC 23 2019

CDJ

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

Panorama Produce Sales, Inc.

CIVIL ACTION

v.

Crowley Latin America Services
a/k/a Crowley Maritime Corporation

19 NO 6070

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1.03 of the plan set forth on the reverse side of this form) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2 (X)
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court (See reverse side of this form for a detailed explanation of special management cases) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

December 23, 2019

Eugene J. Maginnis, Jr., Esq.

Date

Attorney-at-law

Attorney for

(215) 563-3500

(215) 563-5610

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Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

DEC 23 2019